

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JAN MORTON, *individually and on behalf of all
others similarly situated,*

Plaintiff,

v.

THRIVE AGENCY LLC,

Defendant.

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1:24-CV-1458-RP

ORDER

Plaintiff Jan Morton, individually and on behalf of all others similarly situated, filed this action on November 23, 2024. (Dkt. 1). To date, Defendant Thrive Agency LLC (“Defendant”) has not appeared in this action. Accordingly, this Court ordered Plaintiff to move for entry of default. (Dkt. 5). Plaintiff moved for entry of default against Defendant. (Dkt. 6). The Clerk entered default as to Defendant on April 8, 2025. (Dkt. 7). Plaintiff must now move for default judgment. *See* W.D. Tex. Loc. R. CV-55 (“If a defendant is in default, the court may require the plaintiff to move for entry of a default and a default judgment. If the plaintiff fails to do so within the prescribed time, the court may dismiss the action, without prejudice, as to the defendant.”).

Federal Rule of Civil Procedure 55 governs the entry of default judgment. “Default under Rule 55 is a two-step process: (1) the entry of default and (2) the subsequent entry of a default judgment.” *Can Capital Asset Servicing, Inc. v. Huerta, Jr.*, No. SA-15-CV-1049-XR, 2016 WL 8223267, at *1 (W.D. Tex. Mar. 31, 2016) (citing Fed. R. Civ. P. 55). “An *entry of default* is what the clerk enters when the default is established by affidavit or otherwise. After defendant’s default has been entered, plaintiff may apply for a judgment based on such default. This is a *default judgment*.” *New York Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996) (emphasis in original).

Here, Plaintiff moved for entry of default against Defendant on February 19, 2025. (Dkt. 6). The Clerk's Office entered default as to Defendant on April 8, 2025. (Dkt. 7). Plaintiff has yet to complete the second step in the process by moving for default judgment. Fed. R. Civ. P. 55(b).

Accordingly, **IT IS ORDERED** that Plaintiff move for default judgment against Defendants on or before April 30, 2025.

SIGNED on April 16, 2025.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE